

# **EL CAMINO COMMUNITY COLLEGE DISTRICT**

Audit Report

## **HEALTH FEE ELIMINATION PROGRAM**

Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session,  
and Chapter 1118, Statutes of 1987

*July 1, 2000, through June 30, 2003*



**STEVE WESTLY**  
California State Controller

October 2005



**STEVE WESTLY**  
**California State Controller**

October 5, 2005

Thomas M. Fallo, Ed.D.  
President, Superintendent  
El Camino Community College District  
16007 Crenshaw Boulevard  
Torrance, CA 90506

Dear Dr. Fallo:

The State Controller's Office audited the costs claimed by El Camino Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session, and Chapter 1118, Statutes of 1987) for the period of July 1, 2000, through June 30, 2003.

The district claimed \$479,711 for the mandated program. Our audit disclosed that \$79,820 is allowable and \$399,891 is unallowable. The unallowable costs occurred because the district claimed unallowable costs and understated claimed revenue. The State paid the district \$89,101. The amount paid exceeds allowable costs claimed by \$9,281.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at [www.csm.ca.gov](http://www.csm.ca.gov) (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov).

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

**JEFFREY V. BROWNFIELD**  
Chief, Division of Audits

JVB/ams

cc: Pamela Fees, Business Manager  
El Camino Community College District  
Marty Rubio, Specialist  
Fiscal Accountability Section  
California Community Colleges Chancellor's Office  
Jeannie Oropeza, Program Budget Manager  
Education Systems Unit  
Department of Finance

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the El Camino Community College District for the legislatively mandated Health Fee Elimination Program (Chapter 1, Statutes of 1984, 2<sup>nd</sup> Extraordinary Session (E.S.), and Chapter 1118, Statutes of 1987) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was April 7, 2005.

The district claimed \$479,711 for the mandated program. Our audit disclosed that \$79,820 is allowable and \$399,891 is unallowable. The unallowable costs occurred because the district claimed unallowable costs and understated revenue. The State paid the district \$89,101. The amount paid exceeds allowable costs claimed by \$9,281.

## Background

*Education Code* Section 72246 (repealed by Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S. and renumbered as Section 76355 by Chapter 8, Statutes of 1993) authorizes community college districts to charge a health fee for providing health supervision and services, direct and indirect medical and hospitalization services, and operation of student health centers. This statute also required that health services for which a community college district charged a fee during fiscal year (FY) 1983-84 had to be maintained at that level in FY 1984-85 and every year thereafter. The provisions of this statute would automatically sunset on December 31, 1987, reinstating the community college districts' authority to charge a health service fee as specified.

*Education Code* Section 72246 (amended by Chapter 1118, Statutes of 1987 and renumbered as Section 76355 by Chapter 8, Statutes of 1993) requires any community college district that provided health services in FY 1986-87 to maintain health services at the level provided during that year in FY 1987-88 and each fiscal year thereafter.

On November 20, 1986, the Commission on State Mandates (COSM) determined that Chapter 1, Statutes of 1984, 2<sup>nd</sup> E.S., imposed a "new program" upon community college districts by requiring any community college district that provided health services for which it was authorized to charge a fee pursuant to former *Education Code* Section 72246 in FY 1983-84 to maintain health services at the level provided during that year in FY 1984-85 and each fiscal year thereafter. This maintenance-of-effort requirement applies to all community college districts that levied a health service fee in FY 1983-84, regardless of the extent to which the health service fees collected offset the actual costs of providing health services at the FY 1983-84 level.

On April 27, 1989, COSM determined that Chapter 1118, Statutes of 1987, amended this maintenance-of-effort requirement to apply to all community college districts that provided health services in FY 1986-87, requiring them to maintain that level in FY 1987-88 and each fiscal year thereafter.

*Parameters and Guidelines* establishes the state mandate and defines reimbursement criteria. COSM adopted *Parameters and Guidelines* on August 27, 1987, and amended it on May 25, 1989. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for mandated programs, to assist school districts in claiming reimbursable costs.

## **Objective, Scope, and Methodology**

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Health Fee Elimination Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by *Government Auditing Standards*. However, the district declined our request.

## **Conclusion**

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the El Camino Community College District claimed \$479,711 for costs of the Health Fee Elimination Program. Our audit disclosed that \$79,820 is allowable and \$399,891 is unallowable.

For fiscal year (FY) 2000-01, the State paid the district \$54,835. Our audit disclosed that \$40,029 is allowable. The district should return \$14,806 to the State.

For FY 2001-02, the State paid the district \$34,266. Our audit disclosed that all of the costs claimed are unallowable. The district should return the total amount to the State.

For FY 2002-03, the district was not reimbursed by the State. Our audit disclosed that \$39,791 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling \$39,791, contingent upon available appropriations.

**Views of  
Responsible  
Official**

We issued a draft audit report on July 13, 2005. Pamela Fees, Business Manager, responded by letter dated July 26, 2005 (Attachment), disagreeing with the audit results for Findings 2 and 3. The district stated that it is not disputing the adjustment at this time for Findings 1 and 4. This final audit report includes the district's response.

**Restricted Use**

This report is solely for the information and use of the El Camino Community College District, the California Community Colleges Chancellor's Office, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD  
Chief, Division of Audits

# Schedule 1— Summary of Program Costs July 1, 2000, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2000, through June 30, 2001</u>				
Health services costs:				
Salaries and benefits	\$ 331,487	\$ 319,367	\$ (12,120)	Finding 1
Services and supplies	40,562	40,562	—	
Indirect costs	122,627	48,015	(74,612)	Findings 1, 2
Total health services costs	494,676	407,944	(86,732)	
Less cost of services in excess of FY 1986-87 services	—	—	—	
Subtotal	494,676	407,944	(86,732)	
Less authorized health fees	(343,160)	(351,967)	(8,807)	Finding 3
Subtotal	151,516	55,977	(95,539)	
Less offsetting savings/reimbursements	(13,593)	(15,948)	(2,355)	Finding 4
Subtotal	137,923	40,029	(97,894)	
Adjustment to eliminate negative balance	—	—	—	
Total	<u>\$ 137,923</u>	40,029	<u>\$ (97,894)</u>	
Less amount paid by the State		(54,835)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (14,806)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Health services costs:				
Salaries and benefits	\$ 367,872	\$ 367,872	\$ —	
Services and supplies	35,754	35,754	—	
Indirect costs	115,558	57,194	(58,364)	Finding 2
Total health services costs	519,184	460,820	(58,364)	
Less cost of services in excess of FY 1986-87 services	—	—	—	
Subtotal	519,184	460,820	(58,364)	
Less authorized health fees	(349,090)	(460,800)	(111,710)	Finding 3
Subtotal	170,094	20	(170,074)	
Less offsetting savings/reimbursements	(2,583)	(2,583)	—	
Subtotal	167,511	(2,563)	(170,074)	
Adjustment to eliminate negative balance	—	2,563	2,563	
Total	<u>\$ 167,511</u>	—	<u>\$ (167,511)</u>	
Less amount paid by the State		(34,266)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (34,266)</u>		



**Schedule 1 (continued)**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<b><u>July 1, 2002, through June 30, 2003</u></b>				
Health services costs:				
Salaries and benefits	\$ 400,431	\$ 400,431	\$ —	
Services and supplies	54,721	54,721	—	
Indirect costs	129,536	69,866	(59,670)	Finding 2
Total health services costs	584,688	525,018	(59,670)	
Less cost of services in excess of FY 1986-87 services	—	—	—	
Subtotal	584,688	525,018	(59,670)	
Less authorized health fees	(395,380)	(470,196)	(74,816)	Finding 3
Subtotal	189,308	54,822	(134,486)	
Less offsetting savings/reimbursements	(15,031)	(15,031)	—	
Subtotal	174,277	39,791	(134,486)	
Adjustment to eliminate negative balance	—	—	—	
Total	<u>\$ 174,277</u>	39,791	<u>\$ (134,486)</u>	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 39,791</u>		
<b><u>Summary: July 1, 2000, through June 30, 2003</u></b>				
Health services costs:				
Salaries and benefits	\$ 1,099,790	\$ 1,087,670	\$ (12,120)	Finding 1
Services and supplies	131,037	131,037	—	
Indirect costs	367,721	175,075	(192,646)	Findings 1, 2
Total health services costs	1,598,548	1,393,782	(204,766)	
Less cost of services in excess of FY 1986-87 services	—	—	—	
Subtotal	1,598,548	1,393,782	(204,766)	
Less authorized health fees	(1,087,630)	(1,282,963)	(195,333)	Finding 3
Subtotal	510,918	110,819	(400,099)	
Less offsetting savings/reimbursements	(31,207)	(33,562)	(2,355)	Finding 4
Subtotal	479,711	77,257	(402,454)	
Adjustment to eliminate negative balance	—	2,563	2,563	
Total	<u>\$ 479,711</u>	79,820	<u>\$ (399,891)</u>	
Less amount paid by the State		(89,101)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (9,281)</u>		

<sup>1</sup> See the Findings and Recommendations section.

# Findings and Recommendations

## **FINDING 1— Overstated salary, benefit, and indirect costs**

The district overstated salaries and benefits by \$12,120 for the fiscal year (FY) 2000-01. The related indirect cost was \$3,995.

The district claimed 12% of the Dean of Student Services' salary and benefit but did not provide documents such as time logs to validate the time worked at the health center. Therefore, the portion of the dean's salary claimed is unallowable.

*Parameters and Guidelines* specifies that community college districts shall be reimbursed only for costs of health services programs that are traceable to supporting documentation showing evidence of the validity of such costs.

### Recommendation

We recommend the district utilize supporting documentation such as time logs to validate labor charges.

### District's Response

The District is not disputing this adjustment at this time.

### SCO's Comment

The finding and recommendation remain unchanged.

## **FINDING 2— Overstated indirect cost rates**

The district overstated its indirect cost rates, and thus overstated its indirect costs by \$188,652 for the audit period.

The district claimed indirect costs based on indirect cost rate proposals (ICRPs) prepared for each fiscal year by an outside consultant. However, the district did not obtain federal approval for its ICRPs. We calculated indirect cost rates using the methodology allowed by the SCO claiming instructions. The calculated indirect costs rates did not support the indirect cost rates claimed. The audited and claimed indirect cost rates are summarized as follows.

	Fiscal Year		
	2000-01	2001-02	2002-03
Allowable indirect cost rate	13.34%	14.17%	15.35%
Less claimed indirect cost rate	(32.96)%	(28.63)%	(28.46)%
Unsupported indirect cost rate	<u>(19.62)%</u>	<u>(14.46)%</u>	<u>(13.11)%</u>

Based on these unsupported indirect cost rates, the audit adjustments are summarized below.

	Fiscal Year			
	2000-01	2001-02	2002-03	Total
Allowable direct costs claimed	\$ 359,929	\$ 403,626	\$ 455,152	
Unsupported indirect cost rate	×(19.62)%	×(14.46)%	×(13.11)%	
Audit adjustment	<u>\$ (70,618)</u>	<u>\$ (58,364)</u>	<u>\$ (59,670)</u>	<u>\$ (188,652)</u>

*Parameters and Guidelines* states that indirect costs may be claimed in the manner described in the SCO claiming instructions. The SCO claiming instructions require that districts obtain federal approval of ICRPs prepared according to Office of Management and Budget (OMB) Circular A-21. Alternately, districts may use form FAM-29C to compute indirect cost rates. Form FAM-29C uses total expenditures reported on the *California Community College Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*.

### Recommendation

We recommend the district claim indirect costs based on indirect cost rates computed in accordance with the SCO claiming instructions. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21. Alternately, the district should use form FAM-29C to prepare ICRPs based on the methodology allowed in the SCO claiming instructions.

### District's Response

The Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller. The parameters and guidelines for Health Fee Elimination (as last amended on May 25, 1989) state that "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

The Controller's claiming instructions state that for claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, a rate calculated using form FAM-29C, or a 7% indirect cost rate. The Controller claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the Controller wishes to enforce audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

Since the Controller has stated no legal basis to disallow the indirect cost rate calculation method used by the District, and has not shown a factual basis to reject the rates as unreasonable or excessive, the adjustments should be withdrawn.

### SCO's Comment

The finding and recommendation remain unchanged.

We disagree with the district's assertions that the SCO has no legal basis to disallow the indirect cost rate calculations used by the district and has not shown a factual basis to reject the rates as unreasonable or excessive.

*Parameters and Guidelines* states that indirect costs may be claimed in the manner described in the SCO's claiming instructions. Therefore, the specific directions for the indirect cost rate calculation in the claiming instructions are an extension of *Parameters and Guidelines*. The SCO's claiming instructions state that community colleges have the option of the using a federally approved rate prepared in accordance with OMB Circular A-21 or the SCO's alternate methodology using Form FAM-29C. In this case, the district chose to use indirect cost rates not approved by the federal agency, which is not an option provided by the SCO's claiming instructions.

**FINDING 3—  
Understated  
authorized health fee  
revenues claimed**

The district understated authorized health fee revenue by \$195,333 for the audit period.

The district did not use the actual number of student counts and Board of Governors Grants (BOGG) waiver counts in its reporting of the health fee revenue. We recalculated the authorized health fees the district was authorized to collect, using various student enrollment and BOGG detail reports dated January 2005 through March 2005. In addition, the district underreported authorized student health fees by one dollar for FY 2000-01, and two dollars for FY 2001-02 and FY 2002-03.

The understated authorized health fee revenues are calculated as follows.

	Fall	Spring	Total
<u>FY 2000-01</u>			
Student enrollment	22,111	21,592	
Less allowable health fee exceptions	(5,724)	(5,982)	
Subtotals	16,387	15,610	
Authorized student health fee	× \$(11)	× \$(11)	
Audited authorized health fee revenues	<u>\$ (180,257)</u>	<u>\$ (171,710)</u>	\$ (351,967)
Claimed authorized health fee revenues			343,160
Audit adjustment, FY 2000-01			<u>(8,807)</u>
<u>FY 2001-02</u>			
Student enrollment	25,054	24,970	
Less allowable health fee exceptions	(5,736)	(5,888)	
Subtotals	19,318	19,082	
Authorized student health fee	× \$(12)	× \$(12)	
Audited authorized health fee revenues	<u>\$ (231,816)</u>	<u>\$ (228,984)</u>	(460,800)
Claimed authorized health fee revenues			349,090
Audit adjustment, FY 2001-02			<u>(111,710)</u>
<u>FY 2002-03</u>			
Student enrollment	25,626	27,353	
Less allowable health fee exceptions	(7,047)	(6,749)	
Subtotal	18,579	20,604	
Authorized student health fee	× \$(12)	× \$(12)	
Audited authorized health fee revenues	<u>\$ (222,948)</u>	<u>\$ (247,248)</u>	(470,196)
Claimed authorized health fee revenues			395,380
Audit adjustment, FY 2002-03			<u>(74,816)</u>
Total audit adjustments			<u>\$ (195,333)</u>

*Parameters and Guidelines* states that health fees authorized by *Education Code* must be deducted from costs claimed. *Education Code* Section 76355 (c) states that health fees are authorized from all students except those students who: (1) depend exclusively on prayer for healing; (2) are attending a community college under an approved apprenticeship training program; or (3) demonstrate financial need.

Also, *Government Code* Section 17514 states that costs mandated by the State means any increased costs which a district is required to incur. To the extent community college districts can charge a fee, they are not required to incur a cost. In addition, *Government Code* Section 17556 states that COSM shall not find costs mandated by the State if the district has the authority to levy fees to pay for the mandated program or increased level of services.

### Recommendation

We recommend the district ensure that allowable health services program costs are offset by the amount of health service fee revenue authorized by the *Education Code*.

### District's Response

The adjustments for the student health services revenue are based on two reasons. The Controller adjusted the reported enrollment and reported number of students exempt from payment of the fee. The Controller then calculated the student fees collectible based on the highest student health service fee chargeable, rather than the fee actually charged the student.

### STUDENT HEALTH SERVICES FEE AMOUNT

#### "Authorized" Fee Amount

The Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency.

#### Education Code Section 76355

Education Code Section 76355, subdivision (a), states that "The governing board of a district maintaining a community college *may require* community college students to pay a fee . . . for health supervision and services . . ." There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "*If*, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, *if any*, that a part-time student is required to pay. *The governing board may decide whether the fee shall be mandatory or optional.*" (Emphasis supplied in both instances.)

### Parameters and Guidelines

The Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the parameters and guidelines. The parameters and guidelines, as last amended on May 25, 1989, state that “Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a).” Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

### Government Code Section 17514

The Controller relies upon Government Code Section 17514 for the conclusion that “to the extent community college districts can charge a fee, they are not required to incur a cost.” Government Code Section 17514, as added by Chapter 1459, Statutes of 1984, actually states:

“Costs mandated by the state” means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

There is nothing in the language of the statute regarding the authority to charge a fee, any nexus of fee revenue to increased cost, nor any language which describes the legal effect of fees collected.

### Government Code Section 17556

The Controller relies upon Government Code Section 17556 for the conclusion that “the COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service.” Government Code Section 17556 as last amended by Chapter 589/89 actually states:

“The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that: . . .

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. . . .”

The Controller misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is approving a test claim activity for reimbursement, where the authority to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

## ENROLLMENT AND EXEMPTED STUDENTS

The Controller adjusted the reported total student enrollment and reported number of exempt students based on data requested during the audit from the office of the Chancellor of the Community Colleges. The information obtained from the Chancellor's office is based on information provided by the District. The Controller has not provided any factual basis why the Chancellor's data, subject to review and revision for several years, is preferable to the data reported by the District which was available at the time the claims were prepared.

### SCO's Comment

The finding and recommendation remain unchanged.

The district is incorrect when it states that we used student enrollment and Board of Governors Grants (BOGG) waiver counts based on data from the office of Chancellor of the Community Colleges. As mentioned above, the district did not use the actual number of student counts and BOGG waiver counts in its reporting of the health fee revenue. We recalculated the authorized health fees the district was authorized to collect using the district's Student Enrollment Reports and the BOGG Detail Reports dated January 2005 through March 2005.

We agree that community college districts may choose not to levy a health service fee. This is true even if *Education Code* Section 76355 provides the districts with the authority to levy such fees. However, the effect of not imposing the health service fee is that the related health service costs do not meet the requirement for mandated costs as defined by *Government Code* Section 17514. Health service costs recoverable through authorized fees are not costs that the district is required to incur. *Government Code* Section 17556 states that COSM shall not find costs mandated by the State as defined in *Government Code* Section 17514 if the district has authority to levy fees to pay for mandated program or increased level of service.

## **FINDING 4— Understated offsetting revenue**

For FY 2000-01, the district understated offsetting revenue by \$2,355 because it did not reduce claimed health services costs and related health services revenues recorded in revenue account 8890.

*Parameters and Guidelines* specifies that any offsetting savings or reimbursements received by the district from any source as a result of the mandate must be identified and deducted so that only net district health services costs are claimed.

### Recommendation

We recommend the district ensure all applicable revenues are offset on its claims against its mandated program costs.

### District's Response

The District is not disputing this adjustment at this time.

### SCO's Comment

The finding and recommendation remain unchanged.

**OTHER ISSUE—  
Statute of limitations**

The district's response included comments regarding our authority to audit costs claimed for FY 2000-01 and FY 2001-02.

District's Response

The District's Fiscal Year 2000-01 claim was mailed to the Controller on January 14, 2002. The District's Fiscal Year 2001-02 claim was mailed to the Controller on December 30, 2002. The draft audit report is dated July 13, 2005. According to Government Code Section 17558.5, these claims were subject to audit no later than December 31, 2004. The audit was not completed by this date. Therefore, the proposed audit adjustments for FY 2000-01 and FY 2001-02 are barred by the statute of limitations set forth in Government Code Section 17558.5.

The District requests that the audit report be changed to comply with the appropriate application of the Government Code concerning audits of mandate claims.

SCO's Comment

We disagree with the district's assertion that the audit and the related adjustment of the claims are barred by the statute of limitations. *Government Code* Section 17558.5(a), in effect during the audit period, states that district's reimbursement claim is subject to an audit no later than two years after the end of the calendar year in which the claim is filed or last amended. The claims were filed in January 2002 and December 2002, respectively. On December 2, 2004, we made phone contact with the district's business manager and sent a follow-up letter dated December 9, 2004, wherein we agreed to delay the start of the audit until January 5, 2005. In both the phone call and the letter, we clearly stated that the audit would include the claims filed in the 2002 calendar year. This audit was initiated prior to the statutory deadline of December 2004 in which to commence an audit.



**Attachment—  
District's Response to  
Draft Audit Report**

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## EL CAMINO COMMUNITY COLLEGE DISTRICT

16007 Crenshaw Boulevard Torrance, California 90506-0001  
Telephone (310) 532-3670 or 1-866-ELCAMINO

July 26, 2005

Mr. Jim L. Spano, Chief  
Compliance Audits Bureau  
California State Controller  
Division of Audits  
P.O. Box 942850  
Sacramento, CA 94250-5874

Re: Chapter 1, Statutes of 1984  
Health Fee Elimination  
State Controller's Audit  
Fiscal Years: 2000-01, 2001-02 and 2002-03

Dear Mr. Spano:

This letter is the response of the El Camino Community College District to the letter to President Thomas M. Fallo, EdD, from Vincent P. Brown, Chief Operating Officer, State Controller's Office, dated July 13, 2005, and received by the District on July 26, 2005, which enclosed a draft copy of the State Controller's Office audit report of the District's Health Fee Elimination claims for the period of July 1, 2000 through June 30, 2003.

### **Finding 1 - Overstated salary, benefits, and indirect costs**

The District is not disputing this adjustment at this time.

### **Finding 2 - Overstated indirect cost rates**

The Controller asserts that the indirect cost method used by the District was inappropriate since it was not a cost study specifically approved by the federal government. The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller. The parameters and guidelines for Health Fee Elimination (as last amended on May 25, 1989) state that "Indirect costs *may be claimed* in the manner described by the Controller in his claiming instructions." The parameters and guidelines *do not require* that indirect costs be claimed in the manner described by the Controller.

The Controller's claiming instructions state that for claiming indirect costs, college districts have the option of using a federally approved rate from the Office of Management and Budget Circular A-21, a rate calculated using form FAM-29C, or a 7% indirect cost rate. The Controller claiming instructions were never adopted as rules or regulations, and therefore have no force of law. The burden is on the Controller to show that the indirect cost rate used by the District is excessive or unreasonable, which is the only mandated cost audit standard in statute (Government Code Section 17651(d)(2)). If the Controller wishes to enforce audit standards for mandated cost reimbursement, the Controller should comply with the Administrative Procedure Act.

Since the Controller has stated no legal basis to disallow the indirect cost rate calculation method used by the District, and has not shown a factual basis to reject the rates as unreasonable or excessive, the adjustments should be withdrawn.

### **Finding 3 - Understated authorized health fees revenues claimed**

The adjustments for the student health services revenue are based on two reasons. The Controller adjusted the reported enrollment and reported number of students exempt from payment of the fee. The Controller then calculated the student fees collectible based on the highest student health service fee chargeable, rather than the fee actually charged the student.

#### **STUDENT HEALTH SERVICES FEE AMOUNT**

##### "Authorized" Fee Amount

The Controller alleges that claimants must compute the total student health fees collectible based on the highest "authorized" rate. The Controller does not provide the factual basis for the calculation of the "authorized" rate, nor provide any reference to the "authorizing" source, nor the legal right of any state entity to "authorize" student health services rates absent rulemaking or compliance with the Administrative Procedure Act by the "authorizing" state agency.

##### Education Code Section 76355

Education Code Section 76355, subdivision (a), states that "The governing board of a district maintaining a community college may require community college students to pay a fee . . . for health supervision and services . . . " There is no requirement that community colleges levy these fees. The permissive nature of the provision is further illustrated in subdivision (b) which states "If, pursuant to this section, a fee is required, the governing board of the district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board may decide whether the fee shall be mandatory or optional." (Emphasis supplied in both instances.)

### Parameters and Guidelines

The Controller asserts that the parameters and guidelines require that health fees authorized by the Education Code must be deducted from the costs claimed. This is a misstatement of the parameters and guidelines. The parameters and guidelines, as last amended on May 25, 1989, state that "Any offsetting savings . . . must be deducted from the costs claimed . . . This shall include the amount of (student fees) as authorized by Education Code Section 72246(a)." Therefore, while student fees actually collected are properly used to offset costs, student fees that could have been collected, but were not, are not an offset.

### Government Code Section 17514

The Controller relies upon Government Code Section 17514 for the conclusion that "to the extent community college districts can charge a fee, they are not required to incur a cost." Government Code Section 17514, as added by Chapter 1459, Statutes of 1984, actually states:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

There is nothing in the language of the statute regarding the authority to charge a fee, any nexus of fee revenue to increased cost, nor any language which describes the legal effect of fees collected.

### Government Code Section 17556

The Controller relies upon Government Code Section 17556 for the conclusion that "the COSM shall not find costs mandated by the State if the school district has the authority to levy fees to pay for the mandated program or increased level of service." Government Code Section 17556 as last amended by Chapter 589/89 actually states:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that: . . .

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. ..."



The Controller misrepresents the law. Government Code Section 17556 prohibits the Commission on State Mandates from finding costs subject to reimbursement, that is approving a test claim activity for reimbursement, where the authority to levy fees in an amount sufficient to offset the entire mandated costs. Here, the Commission has already approved the test claim and made a finding of a new program or higher level of service for which the claimants do not have the ability to levy a fee in an amount sufficient to offset the entire mandated costs.

#### ENROLLMENT AND EXEMPTED STUDENTS

The Controller adjusted the reported total student enrollment and reported number of exempt students based on data requested during the audit from the office of the Chancellor of the Community Colleges. The information obtained from the Chancellor's office is based on information provided by the District. The Controller has not provided any factual basis why the Chancellor's data, subject to review and revision for several years, is preferable to the data reported by the District which was available at the time the claims were prepared.

#### **Finding 4- Understated offsetting revenue**

The District is not disputing this adjustment at this time.

#### **Statute of Limitations**

The District's Fiscal Year 2000-01 claim was mailed to the Controller on January 14, 2002. The District's Fiscal Year 2001-02 claim was mailed to the Controller on December 30, 2002. The draft audit report is dated July 13, 2005. According to Government Code Section 17558.5, these claims were subject to audit no later than December 31, 2004. The audit was not completed by this date. Therefore, the proposed audit adjustments for FY 2000-01 and FY 2001-02 are barred by the statute of limitations set forth in Government Code Section 17558.5.

The District requests that the audit report be changed to comply with the appropriate application of the Government Code concerning audits of mandate claims.

Sincerely,

EL CAMINO COMMUNITY COLLEGE



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